IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18/09/2002

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THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

W.P.No.35964 of 2002

V.Savithri .. Petitioner

-Vs-

1. The Superintending Engineer
Trichy Electricity Distribution Circle
Tamilnadu Electricity Board
Trichirapalli-20.

2. The Chief Engineer (Personnel)
Tami□nadu Electricity Board
Anna Salai
Chennai-600 002.

3. The Chairman
Tami□nadu Electricity Board
Anna Salai
Chennai-600 002. .. Respondents

Petition under Article 226 of the Constitution of India for the issue of a writ of Certiorarified Mandamus as stated therein.

For petitioner : Mr.V.Elangovan

For respondents : Mr.V.Radhakrishnan

:ORDER

According to the petitioner, her father was working as wireman in the respondent-Board under the Assistant Engineer (O & M), Thuvakkudi, Trichirappalli District, and died on 13.5.1987, while he was in service, when the petitioner was aged 10 years. ce, after passing 10th standard and on completion of 18 years of age, the petitioner preferred an application to the first respondent on 14.11.1996, seeking compassionate appointment, in reply to which, the first respondent, by letter dated 1.8.1997, dir ected the petitioner to send two copies of her educational qualification certificates duly attested by the enquiry officer to whom she appeared for enquiry, which was accordingly furnished by the petitioner to the first respondent. While

so, the second respondent, by letter dated 17.10.1998, rejected the request of the petitioner for compassionate appointment on the ground that she had applied after 12 years after the death of her father, aggrieved by which, the petitioner submitted a review petition t o the second respondent on 21.1.1999, placing reliance on Para 3(3) of the proceedings of the respondent in Permanent BP.Ms.(FB) No.46 (Adm. Branch) dated 13.10.1995, which reads as follows:
"3(3) In the case of already expired staff while in service the dependent should apply for employment assistance within three years from the date of issue of this order. "

on the ground that she had preferred the application for compassionate ground on 14.11.1996, i.e., within three years of passing of the said order dated 13.10.1995. Consequent to the above review petition dated 21.1.1999, the second respondent, by order dated 8.2.2001, informed the petitioner that her application was rejected as per the Board Rules, aggrieved by which, the petitioner seeks the issue of ÿa writ of Certiorarified Mandamus calling for the records relating to Letter No.44544/R3(2)801/Karu .62/97 dated 17.10.1998 and the consequential letter ÿNo.002679/52/G20/ G202/2001ÿdated 8.2.2001 both on the file of the second respondent to quash the same and to direct respondents and to appoint the petitioner in a suitable post on compassionate grou nd.

2. In this regard, I am obliged to refer the decision dated 25.1.1999 made in W.P.No.14134 of 1991, wherein P.Sathasivam, J, following the decision of the Apex Court in Union of India v. Bhagwan Singh reported in 1995 (6) SCC 476 and STATE OF U.P. v RASNATH reported in 1998 (2) SCC 412, rejected the request for appointment on compassionate ground on the ground that the appointment on compassionate ground is intended only to provide immediate financial assistance to the family of the deceased employe e and to help the family in distress.

3. In UNION OF INDIA v. BHAGWAN SINGH reported in 1995 (6) SCC 476, the Apex Court has held as under.
" The reason for making compassionate appointment, which is exceptional, is to provide immediate financial assistance to the family of a government servant who dies in harness, when there is no other earning member in the family.

7. No such consideration would normally operate seventeen years after the death of the government servant. The High Court was, therefore, not right in granting any relief to the respondents."

4. In STATE OF U.P. v. PARASNATH reported in 1998 (2) SCC 412, the Apex Court has held as under:

" 5. The purpose of providing employment to a dependant of a government servant dying in harness in preference to anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. o alleviate the distress of the family, such appointments are permissible on compassionate grounds provided there are Rules providing for such appointment. The purpose is to provide immediate financial

assistance to the family of a deceased government s ervant. None of these considerations can operate when the application is made after a long period of time such as seventeen years in the present case."

5. Similar writ petition, viz. W.P.No.11922 of 2000 was dismissed by this Court by order dated 18.7.2000 which reads as under:
" Admittedly, the petitioner's father died in an alleged fatal accident on 17.11.1969, almost 31 years back. However, the petitioner who is now aged about 41 years seeks an employment on compassionate ground. It appears that the petitioner has made application on 16.7.1982, but the same was rejected by the respondent Board on the ground that his brother is already employed in Integral Coach Factory. Thereafter, the petitioner again applied on 3.11.1993, to which the respondent Board by proceedings dated 26.7.1999 replied to the petitioner that the case of the petitioner was once rejected and therefore the same cannot be re-opened. Hence the petitioner seeks for the issue of a writ of Mandamus directing the respondents to issue an appointment ord er to the petitioner under compassionate ground based on his application dated 16.7.1982 and enquiry dated 20.12.1997.

2. Employment assistance to the dependant of a deceased employee who dies while in service as well as to the dependant of an invalidated employee on medical ground, in my considered opinion, is intended only to protect and safeguard the interest of dependants of the deceased employee immediately after his death by rpoviding employment to one of the dependants in the family of the deceased employee or the invalidated employee on medical ground. Such a concession cannot be claimed as a matter of rig ht by the petitioner after a period of 31 years of the death of his father, in spite of the rejection of his request by the respondent Board as early as 1982. If the petitioner is aggrieved by the said refusal of the respondent Board, to consider his case, he should have moved the Court immediately after the reject of his request by the respondent Board, for appropriate relief.

3. As no good and sufficient reasons are placed by the petitioner before this Court explaining the laches on his part in seeking the relief as prayed for, the writ petition is dismissed. No costs."

6. Again, the Apex Court in SANJAY KUMAR v. THE STATE OF BIHAR & OTHERS. reported in 2000 (6) Supreme Today 43, held that there cannot be any reservation of vacancy till such time the claimant becomes major after number of years, unless there is so pecific provisions in the service regulations.

7. Even though the learned counsel for the petitioner, placing reliance on the Board's resolution dated 13.10.1995, is seeking admission on compassionate ground in pursuance of her admission dated 14.11.1996, while her father, admittedly, died on 13 987, I do not think that the petitioner is entitled for the relief, as prayed for, as the proceedings of the Board itself is contrary to the law laid down by the Apex Court in STATE OF U.P. v. PARASNATH reported in 1998 (2) SCC 412 and in SANJAY KUMAR v . THE STATE OF BIHAR & OTHERS. reported in 2000 (6) Supreme Today 43, referred to above.

8. In view of the decisions referred to above, I do not find any

merit in granting the relief, viz. writ of Certiorarified Mandamus as prayed for. Hence, the writ petition is dismissed. No costs. W.P.M.P.Nos.53859 & 53860 of 2002 are also dismiss

Index : Yes
Internet: Yes

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P.D.DINAKARAN,J.

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